

The Board finds that the settlement in Docket No. 184,315 does not estop claimant from pursuing his claim for an April 14, 1995 injury. K.S.A. 44-531 requires that an administrative law judge determine that a settlement "is for the best interest of the injured employee." This statutory duty of the administrative law judge is thwarted if a settlement includes injuries that are not disclosed. During oral argument to the Board, the parties agreed that there was no mention of the April 14, 1995 injury at the May 8, 1995 settlement hearing and that counsel for respondent and the insurance carrier in Docket No. 184,315 was not aware of any injury subsequent to the February 21, 1991 accident that was the subject of that docketed claim. The reason respondent's counsel used the general language to the effect that claimant was settling all claims up to the date of the settlement hearing was to cover repetitive trauma type injuries that can occur each and every working day and for which, therefore, an accident date is difficult to ascribe. There was no additional consideration given for a specific April 14, 1995 accident.

After reviewing the record and considering the briefs, the Appeals Board finds the award by the ALJ should be affirmed. The Board does so for the reasons stated in the findings and conclusions expressed in the Award by the ALJ. The Board hereby approves those findings and conclusions and adopts them as its own.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Brad E. Avery dated September 25, 1998 should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Steve Brooks, Liberal, KS
Kerry McQueen, Liberal, KS
Brad E. Avery, Administrative Law Judge
Philip S. Harness, Director